

# **EXHIBIT H**

**UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF VIRGINIA  
Norfolk Division**

**CSX TRANSPORTATION, INC.,  
individually and on behalf of NORFOLK  
& PORTSMOUTH BELT LINE RAILROAD  
COMPANY,**

Plaintiff,

v.

**Civil Action No. 2:18cv530**

**NORFOLK SOUTHERN RAILWAY  
COMPANY, NORFOLK & PORTSMOUTH  
BELT LINE RAILROAD COMPANY,  
JERRY HALL, THOMAS HURLBUT,  
PHILIP MERILLI, and CANNON MOSS,**

Defendants.

**DEFENDANT NORFOLK SOUTHERN RAILWAY COMPANY'S  
FIRST SUPPLEMENTAL RULE 26(a)(1) INITIAL DISCLOSURES**

Defendant Norfolk Southern Railway Company ("NSR"), by counsel, pursuant to Federal Rule of Civil Procedure 26(a)(1), submits the following for its First Supplemental Initial Disclosures:

**A. The name and, if known, the address and telephone number of each individual likely to have discoverable information – along with the subjects of that information – that the disclosing party may use to support its claims or defenses, unless the use would be solely for impeachment.**

1. Corporate Representative for Plaintiff CSX Transportation, Inc.

c/o Robert W. McFarland, Esq.  
Benjamin L. Hatch, Esq.  
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CSX Transportation, Inc. may have discoverable information regarding the allegations made in the Complaint and NSR's responsive pleading.

2. Corporate Representative for Norfolk Southern Railway Company

c/o Alan D. Wingfield (VSB No. 27489)  
Michael E. Lacy (VSB No. 48477)  
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Email: kathleen.knudsen@troutman.com

Norfolk Southern Railway Company's Corporate Representative may have discoverable information regarding the allegations made in the Complaint and NSR's responsive pleading.

3. Corporate Representative for Norfolk & Portsmouth Belt Line Railroad Company

c/o James L. Chapman, IV (VSB No. 21983)  
W. Ryan Snow (VSB No. 47423)  
Darius K. Davenport (VSB No. 74064)  
David C. Hartnett (VSB No. 80452)  
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Email: dhartnett@cwm-law.com

Norfolk and Portsmouth Belt Line Railroad Company's ("NPBL") Corporate Representative may have discoverable information regarding the allegations made in the Complaint and NPBL's responsive pleading.

4. Defendant Cannon Moss

c/o W. Edgar Spivey (VSB No. 29125)  
Clark J. Belote (VSB No. 87310)  
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Email: cjbelo@kaufcan.com

Cannon Moss may have discoverable information regarding the allegations made in the Complaint and his responsive pleading.

5. Defendant Jerry Hall

c/o Hugh M. Fain, III (VSB No. 26494)  
M.F. Connell Mullins Jr. (VSB No. 47213)  
John M. Erbach (VSB No. 76695)  
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Email: cmullins@spottsfain.com  
Email: jerbach@spottsfain.com

Jerry Hall may have discoverable information regarding the allegations made in the Complaint and

his responsive pleading.

6. Defendant Thomas Hurlbut

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Thomas Hurlbut may have discoverable information regarding the allegations made in the Complaint and his responsive pleading.

7. Defendant Philip Merilli

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Philip Merilli may have discoverable information regarding the allegations made in the Complaint and his responsive pleading.

8. Present or former Norfolk and Portsmouth Belt Line Railroad Company board members.

9. A records custodian from NSR who will have discoverable information relating to intermodal transportation agreements.

10. The persons and entities identified in Plaintiff and Co-Defendants' Rule 26(a)(1) initial disclosures and/or during discovery in this matter.

11. Other third parties, including anyone referred to in the documents produced in this case, may have information or knowledge of Plaintiff's claimed damages, the identity of whom may be obtained through discovery in this matter.

12. Leslie S. Farless

c/o Alan D. Wingfield (VSB No. 27489)  
Michael E. Lacy (VSB No. 48477)  
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Ms. Farless may have discoverable information regarding shareholder information that NSR received from NPBL and records related to the appointment and resignation of the NPBL board members appointed by NSR.

13. Jeffrey S. Heller

c/o Alan D. Wingfield (VSB No. 27489)  
Michael E. Lacy (VSB No. 48477)  
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Mr. Heller may have discoverable information regarding CSXT's rate proposals to NPBL, competition at NIT, communications with the VPA, and general information regarding the international and intermodal markets.

14. Thomas Hurlburt

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Mr. Hurlburt may have discoverable information regarding the operation of NPBL Board during his time as Director, including without limitation CSXT's 2018 rate proposal to NPBL.

15. Randall W. Hunt

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Michael E. Lacy (VSB No. 48477)  
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Mr. Hunt may have discoverable information regarding trackage rights agreements.

16. David Stinson

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Michael E. Lacy (VSB No. 48477)  
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Mr. Stinson may have discoverable information regarding the operation of NPBL Board during his time as President and General Manager of NPBL, including without limitation CSXT's 2010 rate proposal to NPBL.

17. Kenneth E. Joyner

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Mr. Joyner may have discoverable information regarding competition at NIT.

18. Rob Martinez

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Mr. Martinez may have discoverable information regarding NSR's relationship with VPA.

19. Chris D. Luebbers

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Mr. Luebbers may have discoverable information regarding NPBL rate committee and information regarding competition at NIT.

20. Michael R. McClellan

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Mr. McClellan may have discoverable information regarding CSXT's rate proposals to NPBL, competition at NIT, communications with the VPA, and general information regarding the international and intermodal markets.

21. Greg Summy

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Michael E. Lacy (VSB No. 48477)  
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Mr. Summy may have discoverable information regarding the NPBL Board.

22. Cary G. Booth

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Michael E. Lacy (VSB No. 48477)

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Mr. Booth may have discoverable information regarding CSX's use of NPBL in 2015.

23. Amanda Nelson

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Ms. Nelson may have discoverable information regarding competition at NIT.

**B. A copy – or a description by category and location – of all documents, electronically stored information, and tangible things that the disclosing party has in its possession, custody, or control and may use to support its claims or defenses, unless the use would be solely for impeachment.**

In support of its claims or defenses, NSR may use NPBL corporate documents, NPBL shareholder agreements, service agreements, trackage agreements, and related correspondence. NSR may also be in possession of other documents relevant to the claims and defenses in this case.

Additionally, NSR reserves the right to use any document produced by other parties or obtained from third parties through discovery. NSR reserves the right to supplement as applicable documents are made known to defense counsel. NSR further reserves the right to object to the production of any documents described above on any basis permitted by the *Federal Rules of Civil Procedure*.

**C. A computation of each category of damages claimed by the disclosing party – who must also make available for inspection and copying as under Rule 34 the documents or other evidentiary material, unless privileged or protected from disclosure, on which each computation is based, including materials bearing on the nature and extent of injuries suffered.**

None at this time.

**D. Attach for inspection and copying as under Rule 34, any insurance agreement under which an insurance business may be liable to satisfy all or part of a possible judgment in the action or to indemnify or reimburse for payments made to satisfy the judgment.**

At this time, NSR has not identified an applicable insurance agreement.

Defendant will supplement these disclosures in the event more individuals with knowledge and information become available and if more documents become available.

Dated: November 22, 2019

Respectfully submitted,

**NORFOLK SOUTHERN RAILWAY COMPANY**

By: /s/ Michael E. Lacy

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*Counsel for Norfolk Southern Railway Company*

**CERTIFICATE OF SERVICE**

I certify that on this 22th day of November 2019, the foregoing was sent to the following counsel of record by Electronic Mail to:

James L. Chapman, IV (VSB No. 21983)  
W. Ryan Snow (VSB No. 47423)  
Darius K. Davenport (VSB No. 74064)  
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*/s/ Michael E. Lacy*

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